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REVIEWS.

ELEMENTS OF LAW. By Sir William Markby, K.C.I.E., D.C.L. Fourth edition. Oxford, 1889. 8vo. Pages xii. and 443.

The merits of this excellent book have been so generally recognized that the reviewer can hardly do more than point out an occasional slip or misapprehension. The learned author's discussion of fraud, duress, and error is in general a model of clearness and accuracy. But his criticism on pages 247 and 359 of *Cundy v. Lindsay*, 3 App. Cas. 459, seems unfounded. The shipment of goods to B. in pursuance of an order in the name of B., but really emanating from A. without B.'s knowledge, surely cannot pass the title to either A. or B. Dr. Markby apparently fails to discriminate between such a case and a sale to A., who, being personally present, pretends to be B. In the latter case the title passes to A., for the vendor did mean to sell to the individual before him although under a misapprehension as to his name.¹ Our author must also have overlooked *Ex parte Adamson*, 8 Ch. Div. 819, and *Houldsworth v. Glasgow Bank*, 5 App. Cas. 331, 338, when he expressed his regret, p. 142, that the convenient word "restiution" had not found a place in accepted English terminology. A printer's error on page 400 puts the Statute of Uses in the reign of Henry VII.

Apart from the acknowledged excellence of this book the appearance of a fourth edition is highly gratifying to all who have at heart the interests of legal education. The marked success of the "Elements of Law," like the similar success of Professor Holland's "Elements of Jurisprudence," shows that the value of the scientific study of law is rapidly gaining recognition even in England. We wish we could add that there was an equal advance there of the belief that the science of law, like any other science, may be best pursued at a university under the guidance of men who make the teaching of law their profession. But university publications like the book before us must hasten the day when English lawyers will recognize, as continental and American lawyers already recognize, the superiority of the law department of a university over all other places of legal education.

J. B. A.

VOID EXECUTION, JUDICIAL AND PROBATE SALES. By A. C. Freeman. Third edition. Central Law Journal Company, St. Louis, 1890. 8vo. Pages 178.

An extended notice of the plan and scope of this work is unnecessary, for, as the publication of a third edition shows, the book is already well known. It may be divided into three parts: the first explains what will render a sale void; the second, the rights of purchasers at void sales; and the third is devoted to an interesting and careful discussion of the constitutionality of the many curative statutes and of those authorizing involuntary sales in the absence of any judicial proceeding whatever. The book covers the subject fully and merits the success which

¹ See accordingly *Edmunds v. Merchants' Co.*, 135 Mass. 283; *Robertson v. Coleman*, 141 Mass. 231.

it has achieved. This edition is well arranged for reference and gives copious citations of authorities. There is a table of cases and an index. The letter-press and paper are excellent.

G. C.

A TREATISE ON PRIVATE CORPORATIONS. By Wm. Wharton Smith, of the Philadelphia bar. Rees, Welsh, & Co., Philadelphia, 1889. 69 pages.

This slender volume is the work of a Harvard graduate of the class of '85, and, we are pleased to state, was the first-prize essay in the graduating class of the University of Pennsylvania Law School in 1888.

The sub-title of the essay indicates the scope of its contents, namely, a discussion of "The effect of the clause of the Constitution of the United States that forbids a State to pass a 'Law impairing the obligation of Contracts,' upon the police control of a State over Private Corporations."

The general doctrine set forth is that involved in the line of decisions that began with the case of *Coates v. Mayor, &c. of New York*,¹ and culminated in the case of *Butchers' Union Co. v. Crescent City Co.*,² and is summed up as follows by the author in the last paragraph of his essay: "Every contract, therefore, between a State and a corporation, created by the grant of its charter to the latter by the former, is made upon the implied condition that the State reserves to itself the power to legislate for the public health and morals; and for the purpose of guarding the public health or protecting the public morals, the State can enact any laws in regard to the corporation, which would be constitutional if applied to an individual, in spite of the fact that the charter of the corporation is a contract, and that the Constitution of the United States forbids any State to pass a law impairing the obligations of contracts."

The essay is a clear and forcible discussion of the history and growth of the above-mentioned doctrine, with a complete citation of the authorities and detailed statements and criticisms of the leading cases. It is of a decided and permanent value to the student of constitutional law.

E. T. S.

¹ 7 Cowen, 585.

² 111 U. S. 746.